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**DEC 20 2007**

**OFFICE OF PETITIONS**

In re Application of  
Eric J. HORVITZ et al.  
Application No. 10/635,274  
Filed: August 06, 2003  
Attorney Docket No.  
**MS303532.1/MSFTP481US**

**DECISION ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 02, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. Accordingly, the application became abandoned on June 03, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1020.00 extension of time fee submitted with the petition on August 28, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).


Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

  
David Bucca  
Petitions Examiner  
Office of Petitions